

# Section 2.10

## Comparing the Agricultural Civil Penalty and Structural Civil Penalty Programs

<b>About this section</b>	This section compares the differences and similarities between the Agricultural Civil Penalty Program and Structural Civil Penalty Program.
<b>Comparison chart</b>	The comparison chart follows.
<i>Continued on next page</i>	

## Agricultural Civil Penalties

### Penalty Authority

This process may be applied to any person; Food and Agricultural Code (FAC) §12999.5.

### Fines

Penalties up to \$1,000 per violation for most violations; or up to \$5,000 per violation in certain situations; Title 3, California Code of Regulations (3CCR) §6130.

### Statute of Limitations

County Agricultural Commissioner (CAC) has two years from date of violation; except - one year from submission when the investigation is completed and submitted to the Director of Department of Pesticide Regulation (DPR); FAC §13000(a).

### Respondent Has Right to Review Evidence

Evidence must be available for review at CAC's office during regular business hours - beginning on the day the Notice of Proposed Action (NOPA) is sent to the Respondent.

### Hearing Must Be Requested

Within 20 days – **of receipt of** - NOPA.

### Appeal Rights

An appeal is available only if Respondent timely requests and appears at the hearing. Respondent has **30** days after the CAC's Notice of Decision and Order (to appeal the decision); FAC §12999.5.

### Time to Appeal Decision

Director has **45** days after receipt of written appeal or **15** days after oral arguments or "as soon as practical" to issue appeal decision.

### Send Appeal To

Director  
c/o Chief Counsel - Office of Legal Affairs  
Department of Pesticide Regulation  
P.O. Box 4015  
Sacramento, CA 95812-4015

### Appeal Decided By

Director of DPR

### Failure to Pay Fine

CAC can refuse to issue permit or register pest control operator business; FAC §14008 and §11735.

### Check Payable To

CAC or County (per county policy)

### Key Process Documents

- NOPA must cite agricultural penalty authority; describe violations, discuss fine amount(s), provide hearing request procedures and notify of right to review evidence before hearing.
- Stipulation and Waiver to Order;
- CAC's Notice of Decision and Order must include findings of fact, fine amount, order and appeal rights.
- Hearing Officer's Proposed Decision must include findings of fact and proposed fine amount; the CAC must add an order adopting the decision, order the fine to be paid, and appeal rights.
- Appeal rights; FAC §12999.5.

## Structural Civil Penalties

### Penalty Authority

This process may only be applied to Structural Pest Control Board (SPCB) licensees and registered companies; Business and Professions Code (B&P Code) §8617.

### Fines

Penalties up to \$1,000 per violation; or up to three-day suspension; Title 16, California Code of Regulations (16CCR) §1922.

### Statute of Limitations

County Agricultural Commissioner (CAC) has one-year from date of violation; Code of Civil Procedure §340.

### Respondent Has Right to Review Evidence

Evidence must be available for review at CAC's office during regular business hours - beginning on the day the Notice of Proposed Action (NOPA) is sent to the Respondent.

### Hearing Must Be Requested

Within 20 days – **of issuance of** - NOPA.

### Appeal Rights

An appeal is available only if Respondent timely requests and appears at the hearing. Respondent has **10** days within receipt of the CAC's Notice of Decision and Order (to appeal the decision); B&P Code §8662.

### Time to Appeal Decision

Disciplinary Review Committee (DRC) has **45** days after receipt of written appeal or **15** days after oral arguments to issue appeal decision.

### Send Appeal To

Disciplinary Review Committee  
c/o Chief Counsel - Office of Legal Affairs  
Department of Pesticide Regulation  
P.O. Box 4015  
Sacramento, CA 95812-4015

### Appeal Decided By

DRC of the SPCB

### Failure to Pay Fine

SPCB shall increase the licensee's renewal fee by the fine amount, or refuse to sell stamps or renew license; B&P Code §8617(f).

### Check Payable To

Structural Pest Control Education and Enforcement Fund

### Key Process Documents

- NOPA must cite structural penalty authority; describe violations, discuss fine amount(s), provide hearing request procedures and notify of right to review evidence before hearing.
- Stipulation and Waiver to Order;
- CAC's Notice of Decision and Order must include findings of fact, fine amount, order and appeal rights.
- Hearing Officer's Proposed Decision must include findings of fact and proposed fine amount; the CAC must add an order adopting the decision, order the fine to be paid, and appeal rights.
- Appeal rights; B&P Code §8662.